

EXHIBIT A

List of drug quantity cases

United States v. Timmons, No. 3:04-CR-00092, 2019 WL 3767473 (W.D. Va. Aug. 9, 2019)

United States v. Gordon Ray Jones, No. 7:07-CR-84, 2019 WL 3767474 (W.D. Va. Aug. 9, 2019)

United States v. Barber, No. 5:05-CR-15, 2019 WL 3771754 (W.D. Va. Aug. 9, 2019)

United States v. King, No. 1:08-CR-00041, 2019 WL 3752934 (W.D. Va. Aug. 8, 2019)

United States v. Cross, No. 04-CR-1090-11, 2019 WL 3718768 (N.D. Ill. Aug. 7, 2019)

United States v. Askins, No. 2:02-CR-00645, 2016 WL 9244815 (D. Ariz. Aug. 6, 2019)

United States v. Vanzant, No. 08-CR-00216, 2019 WL 3468207 (S.D. Ala. July 31, 2019)

United States v. Terrell, No. 2:09-CR-031, 2019 WL 3431449 (E.D. Tenn. July 29, 2019)

United States v. Cole, No. 1:09-CR-118, 2019 WL 3406872 (N.D. Ind. July 29, 2019)

United States v. Hill, No. 07-CR-20052, 2019 WL 3325801 (C.D. Ill. July 24, 2019)

United States v. Thompson, No. 3:07-CR-30034, 2019 WL 3308334 (W.D. La. July 23, 2019) (ruling that eligibility determined by statute of conviction); *id.*, 2019 WL 3502687 (W.D. La. Aug. 1, 2019) (order reducing sentence under Sec. 404 of the Act)

Opinion and Order of the Court, *Kemper v. United States*, No. 5:92-CR-00013-FB (W.D. Tex. July 24, 2019), ECF No. 132

These are all the same order in different cases -- United States v. Opher, No. 00-CR-323-09 (KSH), 2019 WL 3297201 (D.N.J. July 23, 2019); *United States v. Ronald Mack*, No. 00-CR-323-02 (KSH), 2019 WL 3297495 (D.N.J. July 23, 2019); *United States v. Rodney Mack*, No. 00-CR-323-01 (KSH), 2019 WL 3297499 (D.N.J. July 23, 2019); *United States v. Hawkins*, No. 00-CR-323-05 (KSH), 2019 WL 3297497 (D.N.J. July 23, 2019)

United States v. Ballinger, No. 2:09-CR-105, 2019 WL 3292156 (E.D. Tenn. July 22, 2019)

United States v. James Hampton Williams, II, No. 3:02-CR-548-03-CMC, 2019 WL 3251520 (D.S.C. July 19, 2019)

United States v. Roderick Wright, No. 03-CR-362-2, 2019 WL 3231383 (N.D. Ill. July 18, 2019)

United States v. Medina, No. 3:05-CR-58, 2019 WL 3766392 (D. Conn. Aug. 9, 2019) (denying government's motion to reconsider order); Ruling, *id.*, No. 3:05-cr-00058 (D. Conn. July 17, 2019), ECF No. 1466 (holding that Medina's conviction for conspiracy to possess with intent to distribute and to distribute 50 grams or more of crack and five kilos or more of powder cocaine is a "covered offense" under the Act)

United States v. White, No. 99-CR-628-04, 2019 WL 3228335 (S.D. Tex. July 17, 2019)

United States v. Henderson, No. 6:05-CR-60040-01, 2019 WL 3211532 (W.D. La. July 15, 2019)

United States v. Graves, No. 2:04-CR-070, 2019 WL 3161746 (E.D. Tenn. July 15, 2019)

United States v. Vanburen, No. 3:00-CR-00066-1, 2019 WL 3082725 (W.D. Va. July 15, 2019)

United States v. Lewis, No. 2:09-CR-031, 2019 WL 3227453 (E.D. Tenn. July 15, 2019)

United States v. Travis Dell Jones, No. 1:08-CR-00040, 2019 WL 3074075 (W.D. Va. July 15, 2019)

United States v. Kerry Donnell Lee, Jr., No. 1:08-CR-00024-007, 2019 WL 3073992 (W.D. Va. July 15, 2019)

United States v. Slade, No. 1:08-CR-00024-005, 2019 WL 3061200 (W.D. Va. July 12, 2019)

United States v. Lutcher, No. 03-CR-338, 2019 WL 3006414 (E.D. La. July 10, 2019)

United States v. Williams, No. 03-CR-1334 (JPO), 2019 WL 2865226 (S.D.N.Y. July 3, 2019);

United States v. Valentine, 2019 WL 2754489 (W.D. Mich. July 2, 2019)

United States v. Burke, 2019 WL 2863403 (E.D. Tenn. July 2, 2019)

Decision and Order, *United States v. Robertson*, No. 2:06-cr-00301 (E.D. Wis. July 1, 2019), ECF No. 70

Order, *United States v. Turner*, No. 1:06-cr-00274 (D. Md. June 28, 2019), ECF No. 50

Order, *United States v. Biggins*, No. 4:93-cr-04028 (N.D. Fla. June 28, 2019), ECF No. 1148

United States v. Herbert, 2019 WL 2718498 (W.D. Va. June 28, 2019)

United States v. Lee, No. 6:05-CR-165-ORL-31-GJK, 2019 WL 2617262 (M.D. Fla. June 26, 2019)

Order, *United States v. Robinson*, No. 4:89-cr-04006 (N.D. Fl. June 26, 2019), ECF No. 852

United States v. Zamora, No. 05-CR-39-BBC, 2019 WL 2883818 (W.D. Wis. June 25, 2019)

United States v. Garrett, 2019 WL 2603531 (S.D. Ind. June 25, 2019)

United States v. Johnson, 2019 WL 2590951 (N.D. Ill. June 24, 2019)

United States v. Jerome Martin, 2019 WL 2571148 (E.D.N.Y. June 20, 2019)

United States v. Bean, 2019 WL 2537435 (W.D. Mich. June 20, 2019)

United States v. Latten, No. 02-011, 2019 WL 2550327 (W.D. Va. June 20, 2019)

United States v. Booker, 2019 WL 2544247 (N.D. Ill. June 20, 2019)

United States v. Berry, 2019 WL 2521296 (W.D. Mich. June 19, 2019)

United States v. Barber, 2019 WL 2526443 (D.S.C. June 19, 2019)

United States v. Shaw, 2019 WL 2477089 (W.D. Wis. June 13, 2019)

United States v. Pride, 2019 WL 2435685 (W.D. Va. June 11, 2019)

United States v. Jones, 2019 WL 2480113 (E.D.N.C. June 11, 2019)

United States v. Martinez, 2019 WL 2433660 (S.D.N.Y. June 11, 2019)

Order, *United States v. Wester*, No. 97-8032 (S.D. Fla. June 14, 2019), ECF No. 86

United States v. Stone, No. 96-403, 2019 WL 2475750 (N.D. Ohio June 13, 2019)

United States v. Paulino, No. 3-274, 2019 WL 2437214 (D.N.M. June 11, 2019)

United States v. Thomas, 2019 WL 2375133 (S.D. Ala. June 5, 2019)

Memorandum, *United States v. Matos*, No. 8-CR-30019 (D. Mass. June 4, 2019), ECF No. 317

United States v. Rose, 379 F. Supp. 3d 223 (S.D.N.Y. May 24, 2019)

Order, *United States v. James*, No. 90-4051 (N.D. Fla. May 21, 2019), ECF No. 823

United States v. Boulding, 379 F. Supp. 3d 646 (W.D. Mich. May 16, 2019)

United States v. Smith, 379 F. Supp. 3d 543 (W.D. Va. May 13, 2019)

Memorandum and Order, *United States v. Trenton*, No. 01-40079 (S.D. Ill. May 6, 2019), ECF No. 110

Order, *United States v. Haynes*, No. 04-CR-20045 (C.D. Ill. May 1, 2019), ECF No. 65

Order, *United States v. Ware*, No. 01-6246 (S.D. Fla. Apr. 30, 2019)

Order, *United States v. Outler*, No. 1:06-CR-291 (E.D. Va. Apr. 26, 2019), ECF No. 49

United States v. Michael Allen, __ F. Supp. 3d __, 2019 WL 1877072 (D. Conn. Apr. 26, 2019)

Order, *United States v. Broussard*, No. 02-CR-00210 (D. Minn. Apr. 19, 2019), ECF No. 160

Order, *United States v. Torrence Allen*, No. 95-6008 (S.D. Fla. Apr. 15, 2019), ECF No. 94

Decision and Order, *United States v. Moreno*, No. 07-00101 (E.D. Wis. Apr. 12, 2019), ECF No. 43

United States v. Brown, No. 07-354, 2019 WL 1895090 (D. Minn. Apr. 29, 2019)

Order Granting Defendant's Motion for Resentencing, *United States v. Green*, No. 98-5067 (W.D. Wash. Apr. 24, 2019), ECF No. 194

United States v. Simons, 375 F. Supp. 3d 379 (E.D.N.Y. Apr. 22, 2019)

Order, *United States v. Lovely*, No. 2:06-cr-00062 (D. Me. Apr. 17, 2019)

United States v. Dodd, 372 F. Supp. 3d 795 (S.D. Iowa Apr. 9, 2019)

United States v. Pierre, 372 F.Supp.3d 17 (D.R.I. 2019)

United States v. Powell, 360 F. Supp. 3d. 134 (N.D.N.Y. Mar. 14, 2019)

United States v. Monae Davis, 2019 WL 1054554 (W.D.N.Y. Mar. 6, 2019)

Order, *United States v. Emerson Davis*, No. 4:92-cr-04013-WS-CAS (N.D. Fla. Mar. 6, 2019), ECF No. 2245

United States v. Glore, 371 F. Supp. 3d 524 (E.D. Wis. Mar. 6, 2019)

United States v. Fleurival, No. 06-00041, 2019 WL 1917247 (W.D. Va. Feb. 6, 2019)

Order, *United States v. Gregory Allen*, No. 8:00-cr-378-T-26AAS (M.D. Fla. Feb. 19, 2019), ECF No. 66

United States v. Laguerre, No. 5:02-CR-30098-3, 2019 WL 861417 (W.D. Va. Feb. 22, 2019)

United States v. Delaney, No. 6:08-CR-00012, 2019 WL 861418 (W.D. Va. Feb. 22, 2019)

EXHIBIT B

First Step Act and Apprendi

United States v. Timmons, No. 3:04-CR-00092, 2019 WL 3767473, *2 (W.D. Va. Aug. 9, 2019)

United States v. Gordon Ray Jones, No. 7:07-CR-84, 2019 WL 3767474, *3-4 (W.D. Va. Aug. 9, 2019)

United States v. King, No. 1:08-CR-00041, 2019 WL 3752934, *5 (W.D. Va. Aug. 8, 2019)

United States v. Askins, No. 2:02-CR-00645, 2016 WL 9244815, *3-4 (D. Ariz. Aug. 6, 2019)

United States v. Terrell, No. 2:09-CR-031, 2019 WL 3431449, *2 (E.D. Tenn. July 29, 2019)

United States v. Rose, 379 F. Supp. 3d 223, 230 (S.D.N.Y. 2019)

United States v. Burke, No. 2:08-CR-63(1), 2019 WL 2863403, *3 (E.D. Tenn. July 2, 2019) (“Applying *Apprendi* and *Alleyne*”)

United States v. Johnson, No. 01 CR 543, 2019 WL 2590951, *3 (N.D. Ill. June 24, 2019) (“The Court concurs with the growing number of district courts that have rejected the Government’s position. Under *Alleyne*, the Government cannot rely on a drug quantity that the Probation Office included in the PSR, when that drug quantity differed dramatically from the quantity found by the jury, to hold Johnson to a higher statutory penalty.”)

United States v. Jerome Martin, No. 03-CR-795 (ERK), 2019 WL 2571148, *2 (E.D.N.Y. June 20, 2019) (“While *Alleyne* and *Apprendi* do not provide retroactive relief, Congress *did* intend to apply current statutory penalties retroactively, and, we can assume, current constitutional protections.”)

United States v. Booker, No. 07-843, 2019 WL 2544247, *2 (N.D. Ill. June 20, 2019) (“To the court’s knowledge, nearly every court to address the issue agrees with Booker—eligibility for relief under the First Step Act is determined by the amount charged in the indictment, not the amount admitted in the plea agreement or found at sentencing.”)

United States v. Latten, No. 02-011, 2019 WL 2550327, *3 (W.D. Va. June 20, 2019) (“Therefore, [the FSA] triggers the collective requirement of *Apprendi* and *Alleyne* that facts that increase the penalty for a crime beyond the prescribed statutory maximums and minimums be charged in the indictment. Accordingly, because the drug weight attributed to Latten in the PSR was not charged in his Indictment, I will not rely on it in this proceeding.”)

United States v. Pride, No. 8-24, DE 3731:10 (W.D. Va. June 11, 2019) (“I join many other district judges in finding that I cannot rely on the drug weight found in the PSR in light of *Apprendi* and *Alleyne*.”)

United States v. Trenton, No. 01-40079, DE 110:5 (S.D. Ill. May 6, 2019) (“*Apprendi* and *Alleyne* apply”)

United States v. Torrence Allen, No. 95-6008, DE 94:7 (S.D. Fla. Apr. 15, 2019) (“In imposing the modified sentence, the Court must consider *Alleyne* and *Apprendi*.”)

United States v. Smith, 379 F. Supp. 3d 543, 546 (W.D. Va. 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Simons, 375 F. Supp. 3d 379, 387 (E.D.N.Y. Apr. 22, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Glore, 371 F. Supp. 3d 524, 532 (E.D. Wis. 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Robertson, No. 2:06-CR-00301-LA, DE 70:7 (E.D. Wis. July 1, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Turner, No. 1:06-CR-00274-TDC, DE 50:2 (D. Md. June 28, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Valentine, No. 1:99-CR-01-2, 2019 WL 2754489, *5 (W.D. Mich. July 2, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Berry, No. 09-05, 2019 WL 2521296, *4 (W.D. Mich. June 19, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Wester, No. 97-8032, DE 86:3 – 4 (S.D. Fla. June 14, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Shaw, No. 2-162, DE 81:7 (W.D. Wis. June 13, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Matos, No. 8-30019, DE 317:7 (D. Mass. June 4, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Michael Allen, No. 3:96-149, 2019 WL 1877072, *4 (D. Conn. Apr. 26, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

Kemper v. United States, No. 5:92-CR-13-FB, DE 132 (W.D. Tex. July 24, 2019) (“Based upon language in the statute reflecting Congress’s intent, as well as the binding nature of both *Apprendi* and *Alleyne* for sentencings held today, this Court likewise concludes that eligibility

for relief under the First Step Act is determined by the amount charged in the indictment, rather than the amount admitted in the plea agreement or found at sentencing.”)

United States v. Opher, No. CR 00-323-09, 2019 WL 3297201, *14 (D. N.J. July 23, 2019) (“the Court finds that, in deciding whether to exercise its discretion to reduce the Mack defendants’ sentences pursuant to § 404, it must consider current constitutional requirements for sentencing”)

United States v. Ballinger, No. 2:09-CR-105, 2019 WL 3292156, *3 (E.D. Tenn. July 22, 2019) (“Applying *Apprendi* and *Alleyne* in this case, defendant is eligible for relief as to Count Four under the First Step Act because he was convicted of a “covered offense” under Section 404(a)’s definition.”)

United States v. White, No. 99-CR-628-04, 2019 WL 3228335, *5 (S.D. Tex. July 17, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Medina, No. 3:05-CR-58, DE 1466 (D. Conn. July 17, 2019)

United States v. Graves, No. 2:04-CR-070, 2019 WL 3161746, *2 (E.D. Tenn. July 15, 2019) (“True, *Apprendi* and *Alleyne* do not retroactively apply on collateral review, but the majority of courts to thus far consider the issue have concluded that those cases’ holdings are nonetheless applicable to § 404.”)

United States v. Vanburen, No. 3:00-CR-66-1, 2019 WL 3082725, *3 (W.D. Va. July 15, 2019) (“this Court joins others in this district finding the holdings of *Apprendi* and *Alleyne* applicable in the First Step context with respect to whether the statutory penalties have been modified.”)

United States v. Lewis, No. No. 2:09-CR-031, 2019 WL 3227453, *2 (E.D. Tenn. July 15, 2019) (“True, *Apprendi* and *Alleyne* do not retroactively apply on collateral review, but the majority of courts to thus far consider the issue have concluded that those cases’ holdings are nonetheless applicable to § 404.”)

United States v. Travis Dell Jones, No. 1:08-CR-40, 2019 WL 3074075, *2 (W.D. Va. July 15, 2019) (“I join many other district judges in finding that I cannot rely on the drug weight found in the PSR in light of *Apprendi* and *Alleyne*.”)

United States v. Kerry Donnell Lee, Jr., No. 1:08-CR-24-007, 2019 WL 3073992, *4 (W.D. Va. July 15, 2019) (“Therefore, it triggers the collective requirement of *Apprendi* and *Alleyne* that facts that increase the penalty for a crime beyond the prescribed statutory maximums and minimums be charged in the indictment.”)

United States v. Henderson, No. 6:05-CR-60040-01, 2019 WL 3211532, *4 (W.D. La. July 15, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Slade, No. 1:08-CR-24-005, 2019 WL 3061200, *4 (W.D. Va. July 12, 2019) *4 (“Therefore, it triggers the collective requirement of *Apprendi* and *Alleyne* that facts that increase the penalty for a crime beyond the prescribed statutory maximums and minimums be charged in the indictment.”)

United States v. Lutchner, No. 03-338, 2019 WL 3006414, *4 (E.D. La. July 10, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Robert Lee Thompson, Jr., No. 3:07-CR-30034, 2019 WL 3308334, at *6 (W.D. La. July 23, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Ronald Mack, No. CR 00-323-02 (KSH), 2019 WL 3297495, at *14 (D.N.J. July 23, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Rodney Mack, No. CR 00-323-01 (KSH), 2019 WL 3297495, at *14 (D.N.J. July 23, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Hassan Hawkins, No. CR 00-323-05 (KSH), 2019 WL 3297497, at *14 (D.N.J. July 23, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Herbert, No. 5:97-CR-30024, 2019 WL 2718498, at *2 (W.D. Va. June 28, 2019) (“this Court joins others in this district finding the holdings of *Apprendi* and *Alleyne* applicable in the First Step context.”)

United States v. Zamora, No. 05-CR-39-BBC, 2019 WL 2883818, at *3 (W.D. Wis. June 25, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Johnson, No. 01 CR 543, 2019 WL 2590951, at *3 (N.D. Ill. June 24, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Stone, No. 96-403, DE 534:5 (N.D. Ohio June 13, 2019) (“The First Step Act neither directs nor implies that the Court should perpetuate the application of an unconstitutional practice when determining a new sentence that complies with the Act’s directives, and many courts faced with the issue have applied the *Apprendi* rule in First Step Act re-sentencings.”)

United States v. Martinez, No. 04-CR-48-20 (JSR), 2019 WL 2433660, at *3 (S.D.N.Y. June 11, 2019) (*Apprendi* and *Alleyne* apply in the context of the First Step Act)

United States v. Pride, No. 1:07CR00020-001, 2019 WL 2435685, at *4 (W.D. Va. June 11, 2019) (“I join many other district judges in finding that I cannot rely on the drug weight found in the PSR in light of *Apprendi* and *Alleyne*.”)